IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1764 OF 2004

Mr.Javed Akhtar Noor Mohammed
Mansuri & Ors. ...Petitioners

Versus

The State of Maharashtra & Anr. ...Respondents

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Mr.Prakash Naik for Petitioners.

Mr.A.S.Gadkari, A.P.P. for Respondent No.1.

Mr.O.A.Siddiqui for Respondent No.2.

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CORAM: A.M.KHANWILKAR, J.

OCTOBER 8, 2004.

P.C.

1. Heard Counsel for the parties.

2. Rule. Rule made returnable forthwith, by consent. Mr.Gadkari, A.P.P. waives notice for Respondent No.1. Mr.Siddiqui waives notice for Respondent No.2.

3. As short question is involved, the matter is taken up for final disposal forthwith, by

consent.

4. By this Petition, Petitioners seek quashing of criminal case No.62/PW/04 pending in the Court of Metropolitan Magistrate, 2nd Court, Mazgaon, Mumbai registered at the instance of Respondent No.2 for offence punishable under Section 498-A and 406 read with Section 34 of the Indian Penal Code. The Petitioner No.1 and Respondent No.2 were husband and wife. They have taken divorce by consent and also arrived at amicable settlement in respect of all the pending disputes inter se. Consent Terms are reduced into writing and filed before the Family Court. It is also agreed between the parties that the Respondent No.2 will not precipitate the criminal case pending against the Petitioners.

5. As per the Consent Terms, the Petitioners were required to pay sum of Rs.2,00,000/- (Rupees Two Lakhs) to the Respondent No.2. The Petitioners had offered that amount by post-dated cheques, to which, the Respondent No.2 had some reservation. In response to apprehension expressed by the

Respondent No.2 on the previous occasion, the Petitioners through their Counsel stated that the Petitioners would offer that amount by bank draft, so as to bring quietus to the entire controversy. In the circumstances, hearing of the matter was deferred till today.

6. Today, Counsel for the Petitioners has made over bank draft drawn in favour of the Respondent No.2 in the amount of Rs.2,00,000/- (Rupees Two Lakhs), which has been duly accepted by the Respondent No.2, who is personally present in Court. Respondent No.2, in turn, has returned the two post-dated cheques, which were issued earlier by the Petitioners. In that sense, both parties have complied with their respective obligations under the Consent Terms. In this backdrop, in view of the recent decision of the Apex Court reported in **2004 (1) Bom.C.R. (Cri.) 93 in the case of B.S.Joshi & Ors. vs. State of Haryana & Anr.**, both the parties have agreed for allowing this Petition in terms of prayer clause (a).

7. In the circumstances, this Petition

succeeds in terms of prayer clause (a). Ordered accordingly.

A.M.KHANWILKAR, J.